NOTICES OF NEW BOOKS.

Reports of Cases argued and determined in the Circuit Court of the United States for the Second Circuit; by Samuel Blatchford, Reporter of the Court, vol. 1., Auburn: Derby & Miller, 1852, (pp. 703.)

It has been a matter of considerable surprise that the decisions of a Court presided over by so able and experienced a judge as Mr. Justice Nelson, and with such an extensive and important jurisdiction, should have remained up to this time unpublished. The numerous questions of commercial law alone, which must have arisen and been determined in the last fifteen years, in what may most justly claim to be one of the very first maritime cities in the world, ought to have had a regular reporter. This volume of Mr. Blatchford, will therefore be received by the profession, with great satisfaction. It comprehends the principal decisions of the Circuit Court in the Districts of New York, of Connecticut, and of New Hampshire, since 1845; principally those of Judge Nelson, but also some from Judges Betts, Prentiss, and Concklin.

The variety and interest of the cases are very great. Every branch of law seems represented, and to have furnished novel and important points. Thus we have, in Admiralty, the case of the *Steamer Pacific*, p. 569, which decides that for a breach of the passenger contract, even though occurring before the departure of the vessel, as where insufficient accommodations are furnished, the passenger may libel *in rem* for a return of the passenger money paid. In the "Serious Family Polka" case, (*Jollie* v. *Jaques*) we find it laid down that a musical composition to be the subject of copyright, must be substantially a new and original work; that a copy of another piece of music with such additions and variations as a composer of ordinary experience and skill could furnish, is not protected; and that no copyright can be had in the mere title of a piece, unless the contents be substantially original. *Harmony* v. *Mitchell*, (p. 549,) again, gave rise to some interesting questions of public law. Col. Mitchell, the defendant, had, during the war in Mexico, under the orders of Col. Doniphan, taken possession of a mule train belonging to the plaintiff, then on a trading

expedition with the enemy's country, with the assent of the commanding officer of our troops. This train was carried by Col. Mitchell several hundred miles on the expedition, and was actually employed in, and it was thought, was a principal means of gaining one of the battles in that singular campaign. Judge Nelson held, and he has been since affirmed in the Supreme Court, that as the plaintiff had been provided with a license from our army, there had been no such trading with the enemy as to forfeit the goods; that though it would have been competent for our troops to have seized the train, to have prevented its falling into the hands of the enemy, yet there was not in fact, any such risk as to justify it for that purpose, and that there was, moreover, nothing in the circumstances to shew so urgent a necessity as to have entitled the commanding officer to take and use the train *pro communi salute.* He also decided that the fact that an inferior officer is acting under orders, is only a justification where these orders are lawful in themselves.

Besides these, we find valuable cases on the the tariff, and patent acts. From one case among the latter we observe, that a difference of practice exists on an important point in pleading, between the second and third circuits. In *Wildie* v. *Gayler*, at page 591, it is ruled that notice must be given in all cases of the several matters of defence specified in the sixth section of the patent act of 1836; and that they cannot be made the subject of a special plea. We believe that in this circuit the section in question is viewed as requiring notice of the special matter only where it is intended to offer it under the general issue; and that a special plea may be put in at any time, subject to the discretion of the court, by way of amendment. This, indeed, was the construction of the similar section of the act of 1793, in *Evans* v. *Eaton*, (3 Wheat. 454; see also Curtis on Patents, § 471, &c.)

In the appendix are some decisions on costs, and the sound and able charge of the Circuit Judge on the Fugitive Slave Act.

Mr. Blatchford's part in the preparation of the book is deserving of the highest praise. The statements of facts are always clear, succinct, and unencumbered with useless pleadings or papers. The syllabus to each case, the guide-post to the reader, is always what it should be, a short but perfect analysis of the points decided. The typographical execution also leaves little to be desired.

Mr. Blatchford informs us in his preface, that "he has in his possession sufficient material to enable him, with the addition of decisions that will

probably be made during the ensuing year, to publish another volume at the expiration of about that time. Whether he will do so," he says, "will of course depend upon the wishes of his brethren of the profession." Mr. Blatchford may be assured that the second volume of his reports will be looked forward to at its due time with great interest.

Reports of Cases decided in the High Court of Chancery of Maryland: Hon. John Johnson, Chancellor. Vol. 1, containing cases from the year 1847 to 1851. Baltimore: published by John W. Woods, 1852. (pp. 603.)

This volume of reports is not without interest, from the fact that the Court whence it emanated, under the new Constitution of Maryland, must shortly cease to exist. It has more solid claims to attention, however, in the well known ability of Chancellor Johnson. The cases which it contains, we are informed, were originally reported for and printed in the Maryland Free Press. They have since been arranged and revised by the Chancellor, a syllabus carefully prepared for each, and a full and complete index subjoined. Various heads of equity jurisprudence, amongst others, the rather unusual ones of trespass and dower, receive illustrations in this volume, with learning and accuracy. We observe that in *Albert* v. *The Savings Bank*, at page 406, it was ruled that "the mere addition of the word '*trustee*' to the name of the person who appears on the books of a corporation as stockholder, with nothing to indicate the character of the trust, or the party beneficially entitled," is not notice of the trust, or of a want of authority in the trustee, to a purchaser. A different conclusion was arrived at in *Walsh* v. *Stille*, (2 Parson's Eq. 17,) and appears, perhaps, the safer one. *Harrison* v. *Harrison*, (2 Atk. 121,) and *Davis* v. *The Bank of England*, (2 Bing. 393,) hardly warrant the inference drawn from them. See also *Mechanics' Bank* v. *Seton*, 1 Pet. Sup. Ct. 299; *Porter* v. *Porter*, 19 Verm. 410; *Reader* v. *Barr*, 4 Hamm. 446; *Christmas* v. *Mitchell*, 3 Ired. Ch. 535; *Hill* v. *Simpson*, 7 Ves. 152.

The Doctrine of Equity: being a Commentary on the Law as administered by the Court of Chancery, by John Adams, Jr., Esq., Barrister at Law, second American edition, with Notes and References to the latest American Chancery decisions, by James R. Ludlow and John M. Collins. Philadelphia: T. & J. W. Johnson, 1852, pp. 760.

This work has, we understand, been adopted by the Supreme Court of